

DECISION

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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548*[Validity of Claim for Expense of Air Force Member's Confinement]*
40928

FILE: E-179920

DATE:

July 12, 1974

MATTER OF: Claim for detention of Air Force member

DIGEST: Claim of Tioga County Sheriff for \$64 for detention of Air Force member, reportedly a deserter, for the period May 9-16, 1973, may be allowed for \$25 only, in accord with para. 10831a(2) and 10831c(3) of AFM 177-102 in absence of indication that subsequent to apprehension member was in Sheriff's custody at request of military authorities and that daily charge of \$8 was for subsistence only.

This action is in response to a request for an advance decision from the Accounting and Finance Officer, Headquarters, 97th Combat Support Group (SAC), Blytheville Air Force Base, Arkansas 72315, which was forwarded to this Office by undated letter from Headquarters, United States Air Force and approved by the Department of Defense Military Pay and Allowance Committee as Air Force submission No. DO-AF-1216, concerning the validity of a claim submitted by the Tioga County Sheriff's Department, Owego, New York, for charges of \$64 for the confinement of Airman Dean A. Stickles, SSAN 109-42-7620, for the period from May 9 through May 16, 1973.

The member, reportedly a deserter, was held at the Tioga County Jail at a daily cost of \$8, until release to the Air Force. The Sheriff's Department did not indicate what portion of the daily charges was applicable to subsistence.

It is stated that there is doubt as to whether reimbursement must be limited to \$25 in accord with paragraph 10831a(2) of Air Force Manual (AFM) 177-102, or if the total claim may be paid under paragraph 10831c(3) of the manual. Additionally, it is indicated that under a contractual arrangement made with the Tioga County Sheriff's Office under paragraph 4-1, Army Regulation (AR) 190-9, actual expenses incident to detention are paid by the Army in similar circumstances.

Department of Defense appropriation bills for many years have contained provisions similar to that included in section 708, Title VII of the act of October 26, 1972, Public Law 92-570, 85 Stat. 2184, for the fiscal year ending June 30, 1973 as follows:

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"Appropriations for the Department of Defense for the current fiscal year shall be available for * * * (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$25 in any one case."

Department of Defense Directive Number 1325.2(V.B.4.a.(3)) dated August 24, 1970, states:

"Under circumstances where persons or agencies who apprehend and/or return absentees and deserters to military control may not be paid a reward, reimbursement for reasonable and actual expenses may be made not to exceed twenty-five dollars (\$25.00) for any one case."

AFM 177-102, paragraph 10831a(2), and Air Force Regulation 35-73, paragraph 6, section A, likewise limit the amount the Air Force may pay, to \$25 for the apprehension and delivery to military control, of absentees, deserters, or escaped military prisoners, or for reimbursement of reasonable and actual expenses in connection therewith.

Additionally, paragraph 10831c of AFM 177-102 provides as follows:

"(3) Subsistence by Civil Authorities.
Civil authorities may be reimbursed for cost of feeding members placed in their custody at the request of military authorities. This is in addition to rewards or other reimbursements authorized by para 10831a.

"(4) Non-reimbursable Expenses.
(a) Lodging at nonmilitary confinement facilities."

The Sheriff's Office is entitled to receive \$25 under AFM 177-102, paragraph 10831a(2). However, in order for the Sheriff's Office to be reimbursed for subsistence under AFM 177-102, paragraph 10831c(3), in addition to \$25, it must be shown that the member was placed in the custody of the Tioga County Sheriff at the request of military authorities and that the \$8 daily charge is for subsistence only or what part thereof is for subsistence. In the absence of such information, payment must be limited to \$25.

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AR 190-9, March 24, 1972, in paragraph 4-1a provides that whenever necessary civil detention facilities may be used to detain absentees, deserters, or escaped military prisoners and that contracts providing for payment only of actual costs incident to detention may be made. Paragraph 4-2 provides as follows:

"Civil authorities may be reimbursed for the cost of temporary detention of absentees, deserters or escaped military prisoners detained at the request of appropriate military authority for safekeeping after military authorities have assumed custody. This is not to be interpreted as authorizing reimbursement for cost of subsistence for the same period of time for which the payment of reward was authorized, but for the cost from the date further detention was specifically requested. Such reimbursement does not preclude the payment of reward or reimbursement for reasonable expenses for periods of time prior to delivery of the member to military custody. * * *

The Army agreement previously referred to in regard to the Tioga County Sheriff's Office under AR 190-9, does not entitle civil authorities to more than \$25 for the initial period of detention of a military deserter. It is only after military authorities have assumed custody that civil authorities may be reimbursed actual costs of subsistence for subsequent temporary detention of a military absentee, deserter, or escaped military prisoner.

Accordingly, on the record presented, payment may be made to the Tioga County Sheriff's Office for \$25.

R.F.KELLER

Deputy

Comptroller General
of the United States